COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No.64 of 2003
(Old No.369 of 2000)

Dy. Commissioner of Income Tax
(Asstt) Special Range, Moradabad

... Appellant

Versus

M/s Kumaon Mandal Vikas Nigam Ltd.
Nainital .. Respondent

Dated: December 08,2005

Mr. Pitambar Maulekhi, Standing Counsel for the appellant.
Mr. U.K. Uniyal, Advocate for the respondent.

Coram: Hon. P.C. Verma, J.
Hon. J.C.S. Rawat, J.

This is an appeal against the judgment and order dated 13.03.2000 passed by Income Tax Appellate Tribunal (Delhi) in ITA No.950/D/94 for the assessment year 1987-88 The substantial question framed in the appeal is as follows:-

> *"Whether the ITAT was legally justified on the facts and circumstances of the case, in confirming the order of the CIT(A) that the liability of such interest had accrued during the period relevant to the assessment year under reference and whether such allowance of interest was rightly allowed by the ITAT in the eyes of law?"*

Brief facts of the case giving rise to this appeal are that assessee is a Government Company being managed by the office of State Government. It took certain loans from the

government on which the interest was payable. There was a condition attached to such loan that in case the installments were paid on the due dates, certain rebate will be allowed to the assessee company on the interest paid by it. The Assessing Officer verified the schedule of repayment of the loan taken from the Government and held that excess deductions of Rs.2,87,566/- by way of interest on such loans have been claimed by the assessee for the assessment year under consideration and accordingly disallowed the deduction of Rs.2,87,566/-. Aggrieved by the order of Assessment Officer, the assessee filed an appeal before Commissioner (Appeals). The Commissioner (Appeals) considered the submissions of the assessee and following the CIT(A)'s order for assessment year 1986-87 deleted the disallowance made by the Assesssing Officer Being aggrieved by the order of Commissioner (Appeals), the department preferred an appeal before Income Tax Appellate Tribunal (Delhi Bench 'D' Delhi). The Income Tax Appellate Tribunal also dismissed the appeal of the Revenue and confirmed the order passed by the Commissioner (Appeals). Feeling aggrieved, the present appeal has been filed.

We have heard learned counsel for the parties and perused the entire evidence on record.

Learned counsel for the appellant himself stated at Bar that the appeal has no merits and the question framed in the appeal may be answered in favour of the assessee.

In view of the above statement made at Bar by learned counsel for the appellant, the question is answered in favour of the assessee and against the Revenue.

The appeal is dismissed accordingly. No order as to costs.

(J.C.S. Rawat, J.) **(P.C. Verma, J.)**

Rajeev Dang

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